

19 TAC §22.264

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new §22.264 (Allocation and Disbursement of Funds - Public Technical and State Colleges) in Texas Administrative Code Subchapter M, concerning the Texas Educational Opportunity Grant Program. To provide institutions greater flexibility in administering their state financial aid funds, the Coordinating Board proposes modifying the TEOG allocation methodology by eliminating reallocations and implementing a biennial approach to the annual allocation process. Changes to these sections are made in accordance with Senate Bill 215, passed by the 83rd Texas Legislature, Regular Session, which called for the Coordinating Board to engage institutions of higher education in a negotiated rulemaking process as described by Chapter 2008, Government Code. The intent of the amendments is to incorporate into existing rule the changes and provisions developed by the Negotiated Rule-Making Committee.

Specifically, new §22.264 establishes the rules pertaining to the new TEOG allocation methodology and disbursement of funds for public technical and state colleges. Language is added that specifies the data source and criteria to be used in calculating the allocation base for each institution, allows for allocations to be calculated for both years of the biennium simultaneously (rather than annually), and will allow Board staff to forecast data for use in allocating funds for the second year of the biennium. This section also describes the procedures for disbursing funds to the institutions under the new methodology.

Section 22.264(c) adds guidelines for how the Coordinating Board will handle the reduction of funds after the start of a fiscal year or prior to the start of a fiscal year.

Charles W. Puls, Ed.D., Deputy Assistant Commissioner, Student Financial Aid Programs, has determined that for each year of the first five years the section is in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rules. There will be no impact on small businesses or rural communities, as described in Texas Government Code, Chapter 2006, and therefore an Economic Impact analysis is not required.

Dr. Puls has also determined that for each year of the first five years the amendments are in effect, the public benefits anticipated as a result of administering the section will be institutions' improved ability to meet the needs of their student populations. There is no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section. There is no impact on local employment.

Dr. Puls has also determined that for each year of the first five years the sections are in effect, the proposed rules:

- 1) Neither creates nor eliminates a government program;
- 2) Does not require the creation of new employee positions nor eliminates existing positions;
- 3) Neither increases nor decreases future legislative appropriations to the agency;
- 4) Neither increases nor decreases fees paid to the agency;
- 5) Does not create a new regulation as this regulation is merely being moved from one chapter to another chapter;
- 6) Does not expand, limit, or repeal an existing regulation;
- 7) Neither increases nor decreases the number of individuals subject to the rule's applicability; and

8) Neither positively nor adversely affects this state's economy.

Comments on the proposal may be submitted to Charles W. Puls, Ed.D., Deputy Assistant Commissioner, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711, or via e-mail Charles.Puls@thechb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new section is proposed under Texas Education Code Section, §56.403, which authorizes the Coordinating Board to adopt rules for the administration of the Texas Educational Opportunity Grant Program.

The new section relates to Texas Administrative Code, Chapter 22, Subchapter M.

§22.264.Allocation and Disbursement of Funds - Public Technical and State Colleges.

(a) Allocations for public technical colleges and public state colleges for Fiscal Year 2016 and Later. Allocations are to be determined on an annual basis as follows:

(1) The allocation base for each eligible institution will be the number of students it reported in the most recent certified Financial Aid Database submission who met the following criteria:

(A) were classified as Texas residents;

(B) were enrolled as undergraduates half-time, three-quarter time, or full-time; and

(C) have a 9-month Expected Family Contribution, calculated using federal methodology, less than or equal to the Federal Pell Grant eligibility cap for the year reported in the Financial Aid Database submission.

(2) Each institution's percent of the available funds will equal its percent of the state-wide need as determined by multiplying each institution's enrollments by the respective award maximums of students who meet the criteria in subsection (a)(1) of this section.

(3) Beginning with allocations for Fiscal Year 2020, allocations for both years of the state appropriations' biennium will be completed at the same time. The three most recent certified Financial Aid Database submissions will be utilized to forecast the data utilized in the calculation of the allocation for the second year of the biennium. Institutions will receive notification of their allocations for both years of the biennium at the same time.

(4) Verification of Data. Allocation calculations will be shared with all participating institutions for comment and verification prior to final posting, and the institutions will be given 10 working days, beginning the day of the notice's distribution and excluding State holidays, to confirm that the allocation report accurately reflects the data they submitted or to advise Board staff of any inaccuracies.

(b) Disbursement of Funds to Institutions. As requested by institutions throughout the academic year, the Board shall forward to each participating institution a portion of its allocation of funds for timely disbursement to students. Institutions will have until the close of business on August 1, or the first working day thereafter if it falls on a weekend or holiday, to encumber program funds from their allocation. After that date, institutions lose claim to any funds in the current fiscal year not yet drawn down from the Board for timely disbursement to students. Funds released in this manner in the first year of the biennium become available to the institution for use in the second year of the biennium. Funds released in this manner in the second year of the biennium become available to the Board for utilization in grant processing. Should these unspent funds result in additional

funding available for the next biennium's program, revised allocations, calculated according to the allocation methodology outlined in this rule, will be issued to participating institutions during the fall semester.

(c) Reductions in Funding.

(1) If annual funding for the program is reduced after the start of a fiscal year, the Board may take steps to help distribute the impact of reduced funding across all participating institutions by an across-the-board percentage decrease in all institutions' allocations.

(2) If annual funding is reduced prior to the start of a fiscal year, the Board may recalculate the allocations according to the allocation methodology outlined in this rule for the affected fiscal year based on available dollars.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 7, 2018.

TRD-201802040

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Earliest possible date of adoption: June 17, 2018

For further information, please call: (512) 427-6104